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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
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FILE: [REDACTED]
MSC 07 262 20936

Office: SALT LAKE CITY

Date: OCT 05 2009

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for Alien Relative Pursuant to Section 204(a)(1)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(i)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The director of the Salt Lake City Field Office denied the immigrant visa petition. The matter is now before the AAO on appeal. The appeal will be rejected for lack of jurisdiction.

The petitioner seeks immediate relative classification of his spouse pursuant to section 204(a)(1)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(i). The director determined that the petitioner was convicted of a specified offense against a minor and denied the petition pursuant to section 204(a)(1)(A)(viii) of the Act, 8 U.S.C. § 1154(a)(1)(A)(viii). That provision prohibits U.S. citizens with such convictions from filing alien relative petitions unless the citizen poses no risk to the beneficiary.

The petitioner, through counsel, submitted a Form I-290B, Notice of Appeal, to the AAO seeking review of the director's decision denying the Form I-130 petition. The AAO lacks jurisdiction over this type of petition. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in her through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction only over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003).¹

The Board of Immigration Appeals (BIA) within the U.S. Department of Justice has jurisdiction over alien relative petitions filed under section 204(a)(1)(A)(i) of the Act. 8 C.F.R. § 1003.1(b)(5). However, the BIA lacks jurisdiction to review the determination of whether a petitioner convicted of a specified offense against a minor poses a risk to the beneficiary. That determination lies within the sole and unreviewable discretion of U.S. Citizenship and Immigration Services (USCIS) and the Department of Homeland Security. Section 204(a)(1)(A)(viii) of the Act, 8 U.S.C. § 1154(a)(1)(A)(viii).

The AAO has no jurisdiction over the appeal from the denial of the Form I-130 petition for alien relative under section 204(a)(1)(A)(i) of the Act. Accordingly, the appeal will be rejected.

ORDER: The appeal is rejected.

¹ Subsequent regulations have granted the AAO jurisdiction over additional types of cases. *See e.g.*, 8 C.F.R. §§ 245.23(i), 245.24(f)(2) (providing for the appeal from the denial of adjustment of status applications filed by aliens in U and T nonimmigrant status).